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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,110	09/09/2003	Hans David Hoeg		9223

7590 04/03/2006

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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT PAPER NUMBER

3739

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/657,110		HOEG ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Philip R. Smith		3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/12/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Specification**

- [01] Outstanding objections to the specification are withdrawn in view of the amendments to the abstract of 2/13/2006.

### **Claim Rejections - 35 USC § 102**

- [02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [03] Claims 1-5 & 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (6,241,657).

### **Claim Rejections - 35 USC § 103**

- [04] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [05] Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Dohi (2002/0022767).
- [06] With regard to claim 9: Claim 9 differs from claim 1, which is anticipated by Chen (as noted above), in that it recites acquiring configuration data of an internal view changing mechanism of the said endoscope. Chen broadly discloses an endoscope with a viewpoint that has a measurable position and orientation (5/3-

19) wherein the position and orientation are inherently changeable, but does not disclose a particular means of changing the position and orientation of the viewpoint.

[07] Chen does not disclose an internal view changing mechanism.

[08] Dohi discloses an endoscope ("rigid endoscope 1," [0021]) with a viewpoint that has a measurable orientation, and furthermore discloses an internal view changing mechanism (comprising "first and second motors 7 and 8" and "[r]otary encoders 9 and 10," [0023]).

[09] Chen discloses that "[t]racking system 97 is attached to endoscope 90 such that the output signals generated by tracking system 97 will be representative of the spatial positioning and orientation of the endoscope 90." The changeable position of Dohi's endoscope could be measured with the "tracking system 97" disclosed by Chen as instructed by Chen. The changeable orientation of Dohi's endoscope could be measure with the "[r]otary encoders 9 and 10" disclosed by Dohi and fed to the "tracking system 97" disclosed by Chen. Together, the combination would result in an endoscope with a viewpoint having a measurable position and orientation as determined by Chen's "tracking system 97."

[10] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that Chen's endoscope, as broadly indicated (4/56-57), accommodate the particulars of an endoscope disclosed by Dohi. A skilled artisan would be motivated to do so because Dohi's endoscope allows for "[provision of]

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various endoscope images in good quality without the movement or bending of an endoscope" ([0008]).

[11] With regard to claims 10-13: These are rejected for the reasons set forth in the previous Office action with regard to claims 2-5 respectively.

### **Response to Arguments**

[12] Applicant's arguments filed 2/13/2006 have been fully considered but they are not persuasive.

[13] With regard to claims 1 & 8: Applicant contends that "[Chen] does not disclose the use of an internal device for actively altering the direction of view about an axis perpendicular to the longitudinal axis of the endoscope shaft." It is maintained that the invention as claimed in claims 1 & 8 requires no such structure. Applicant correctly states that Chen is "'variable' in the sense that the direction can be changed by rotating the endoscope about its longitudinal axis."

[14] Applicant contends that "[Chen] does not disclose acquiring data reflecting an internal configuration of the endoscope." It is maintained that the "tracking system" disclosed by Chen determines the overall orientation of the endoscope, which necessarily reflects the orientation of the internal configuration of the endoscope.

### Conclusion

- [15] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- [16] A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
- [17] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [18] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [19] Information regarding the status of an application may be obtained from the Patent

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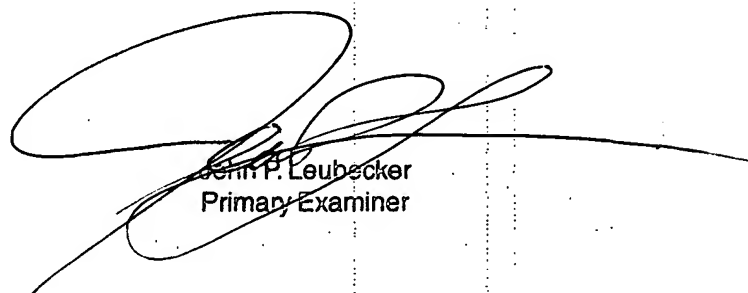
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John P. Leubecker  
Primary Examiner